

**TENNESSEE BOARD OF PHARMACY  
MAY 15 - 16, 2002  
ROOM 160 - DAVY CROCKETT TOWER  
NASHVILLE, TENNESSEE**

**BOARD MEMBERS PRESENT:**

Alan Corley, President  
Forrest Parmley, Vice President  
Barbara McAndrew, Public Member  
Robert Shutt, Member  
Reggie Dilliard, Member  
Julie Frazier, Member  
Paula Hinson, Member

**STAFF PRESENT:**

Kendall Lynch, Director  
Cecil Ross, Legal Counsel  
Martha Agee, Board Administrator  
John Beauregard, Pharmacist Investigator  
Terrence Cannada, Pharmacist Investigator  
Harry Fuqua, Pharmacist Investigator  
Richard Hadden, Pharmacist Investigator  
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Wednesday, May 15, 2002, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CDT by Dr. Alan Corley, President.

Dr. Alan Corley introduced 4th year University of Tennessee students, Mr. Jamie Dixon and Mr. Thomas Walker; and 3rd year University of Tennessee students, Mr. Wesley Ball and Mr. Rob Bullington.

**RECIPROCAL EXAMINATION**

The Jurisprudence Examination was administered to twenty-five (25) applicants, beginning at 10:00 a.m. CDT on Wednesday, May 15, 2002. The examination was administered by Pharmacy Board Investigators. All of the applicants successfully completed the examination, were interviewed by the Board and approved for licensure.

**SCORE TRANSFER/NAPLEX JURISPRUDENCE EXAMINATION**

The Jurisprudence Examination was administered to two (2) Score Transfer examinees, eighteen (18) NAPLEX examinees, and four (4) reinstatement examinees in Room 640 of the Davy Crockett Tower at 10:00 a.m. CDT on Wednesday, May 15, 2002. The examination was administered by the

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Pharmacy Board Investigators. All of the applicants successfully completed the Jurisprudence Examination.

### **JURISPRUDENCE EXAMINATION ADMINISTERED IN MEMPHIS, TENNESSEE JUNE 5, 2002**

The Jurisprudence Examination was administered to one-hundred and thirty (130) NAPLEX examinees, five (5) Score Transfer examinees and eleven (11) Reciprocal examinees at the University of Tennessee Campus on Wednesday, June 5, 2002 at 10:00 CDT. All of the applicants successfully completed the Jurisprudence Examination.

### **APPROVAL OF THE MINUTES**

The minutes of the **March 19 - 20, 2002** board meeting were presented and reviewed by the Board. Dr. Robert Shutt motioned to **approve the minutes**; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

### **DAVID BELEW - REQUEST FOR REINSTATEMENT OF LICENSE KNOXVILLE, TN**

Dr. David Belew appeared before the Board along with advocate, Ken Archer of TPRN to request reinstatement of his pharmacist license. Director Kendall Lynch stated in August 2001 the board office received a telephone call from pharmacist investigator Dr. Ralph Staton advising that Dr. Belew was in Cornerstone for impairment. Dr. Belew stated after sustaining a knee injury in the spring of 2000 that he started taking hydrocodone regularly. In the fall of 2000, Dr. Belew stated he decreased the consumption of hydrocodone but started taking Soma. Dr. Belew attended a three day evaluation at Cornerstone as an out-patient but continued to use drugs and was in denial. On October 31, 2001, Dr.

Belew was admitted for treatment as an in-patient for thirty days and an out-patient at a half way house. Dr. Belew has completed his 90/90, is attending Caduceus and aftercare meetings and has a support network in place. Dr. Ken Archer stated Dr. Belew is willing to do the things TPRN has asked and suggests working twenty (20) hours per week. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number 10966 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Repondent shall consume no medications unless they are prescribed by his primary physician, Lynne Taylor, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

**RAYMOND FREDERICK - MODIFICATION OF CONSENT ORDER  
KNOXVILLE, TN**

Dr. Raymond Frederick appeared before the Board to request a modification of his consent order. Dr. Frederick was accompanied by advocate, Dr. Ken Archer. Dr. Frederick had in his possession a letter

from Mr. Eric Amburgey with Cornerstone advocating on his behalf, but due to a prior commitment could not be in attendance. Director Kendall Lynch informed the Board that in November, 2001, Dr. Frederick appeared before the Board to petition for a Modification of the Consent Order and was advised to obtain advocacy. In October, 1999 Dr. Frederick had entered in a Consent Order to Revoke Probation due to a positive urine screen for Ultram and non-compliance with the TPRN contract. Dr. Ken Archer stated Dr. Frederick had problems with authority and was not attending Caduceus meetings due to working two jobs. Dr. Archer stated Dr. Frederick's recovery program is now in place and is compliant with the TPRN contract. After board discussion, Dr. Paula Hinson motioned to have a new Consent Order to reinstate the license of Dr. Raymond Frederick under the following terms and conditions:

1. Respondent does hereby agree to the reinstatement of license number 3869 with the following probationary conditions. Said probation shall remain in effect for a period of ten (10) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Repondent shall consume no medications unless they are prescribed by his primary physician, Davis Allan, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

② One (1) year to not more than five (5) consecutive years, the pharmacist shall:

1. Provide written notice requesting an active license.

2. Satisfy all past due continuing pharmaceutical education.
3. Successfully complete the jurisprudence examination.
4. Pay all cumulative license renewal fees and any applicable penalties.
5. Complete a period of pharmacy internship in Tennessee:
  - (i) From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

Mrs. Barbara McAndrew seconded the motion. Legal counsel advised that since Dr. Frederick had completed the internship that the statement should remain in the Consent Order. All were in favor and the motion carried.

**#200101757**  
**INFORMAL CONFERENCE - RONALD DUNIVAN**  
**FAYETTEVILLE, TN**

Dr. Ronald Dunivan appeared before the Board along with his wife, Ms. Betty Dunivan; technician, Ms. Amy Grogan; Officer James Bostick and Sgt. Joe Messick with the Fayetteville Police Department for an Informal Conference. Mr. Doug Carver, Chief of Police for Fayetteville, Tennessee, could not be in attendance.

Legal counsel, Cecil Ross, informed the Board that Dr. Dunivan had two (2) issues to address before the Board. Dr. Dunivan had been arrested, charges were filed and he was acquitted of the charges as being not guilty by reason of insanity; and in November, 2001, Dr. Dunivan had not obtained his continuing education hours for license renewal as he was in the hospital for a 90 day evaluation at

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Middle Tennessee Mental Health Institute. Mr. Ross stated the waiver of continuing education is still a matter of consideration. Mr. Ross advised that pursuant to T.C.A. §63-10-505 the board is vested with the power and authority to determine if Dr. Dunivan is still capable of practicing pharmacy. Mr. Ross stated Dr. Dunivan has signed a waiver indicating his consent that the members of the board would not be ineligible. Dr. Dunivan stated he has not been suicidal or homicidal but felt he had a nervous breakdown. Dr. Dunivan stated he was not at work at the time the incident took place. Mr. Ross informed the Board that Dr. Dunivan was taking anti-depressant medications as he was diagnosed as being manic-depressive and the symptoms stem from his military service. Mrs. Betty Dunivan stated she attended all the meetings with the doctors from MTMHI and her husband is dealing with the Vietnam issues. Mrs. Dunivan stated that the attorney advised that Dr. Dunivan could not attend the CE seminar since he was under house arrest and the Judge would not allow him to leave. Ms. Amy Grogan, stepdaughter to Dr. Dunivan, stated he was well liked in the community, and never presented any danger to the public. Officer James Bostick stated he knew of no prior brushes with the law and expressed concern of this happening in the workplace. Dr. Alan Corley stated the Board needed documentation by letter from the doctor and have someone from the treatment team appear. Dr. Robert Shutt motioned to table until the board has the proper documentation. Dr. Forrest Parmley seconded the motion. All were in favor and the motion carried.

### **OLD COMPLAINTS**

- 1) L99-PHR-RBS-199900093 and**
- 2) L99-PHR-RBS-199900095**

**Two complaints arising out of the same matter. Pharmacist A and Pharmacist B were President and Chairman of the Board, respectively, of a pharmaceutical corporation. They were**

indicted in federal court on various charges of diverting pharmacy benefit money under TennCare and Medicaid to their own use. They entered an agreement with the United States and the Attorney General of Tennessee by which they both pled guilty to one misdemeanor count of Federal Health Care Program Fraud and agreed to pay \$1,300,000 to the United States and \$700,000 to the State of Tennessee, plus investigation costs to the Tennessee Bureau of Investigation. Under the terms of the agreement, both are to be excluded for fifteen years from all federal health care programs. The Court accepted this plea and sentenced both defendants to one year of probation, including 4 months of house arrest. Adherence to the financial terms of the settlement was made a condition of probation.

*Previous complaints:* One (administratively closed) for Pharmacist A; None for Pharmacist B.

At the March meeting, the Board tabled the matter pending a report on whether any Board members needed to recuse themselves because of personal knowledge of this matter. In the opinion of staff counsel, no such recusal is necessary.

**Recommendation:** TWO-YEAR SUSPENSIONS on both, with one year stayed during good behavior. Note: The terms of the plea agreement prohibit the imposition of any civil penalty.

Legal counsel, Cecil Ross, stated if this matter were to come before an Administrative Law Judge, the Judge would have to make the determination on recusal. Mr. Ross asked is there any board member who would feel to recuse himself from any vote on this matter; Dr. Forrest Parmley stated, "yes". Dr. Robert Shutt motioned to accept counsel's recommendation should they petition the board for reinstatement. Mrs. Barbara McAndrew seconded the motion. Dr. Forrest Parmley recused himself. The motion carried.

**1) L01-PHR-RBS-200104177**

A licensed pharmacist pleaded guilty to two counts of sexual battery, a Class E felony. As part of the plea agreement, he was placed in diversionary status, which means that if he had served his probation successfully the conviction would be expunged. Pending probation, this could not be considered a conviction for purposes of Board discipline. Last month, the court found that the respondent had violated his probation and revoked his diversionary status. He is now a convicted felon. He is still at large on probation; there is no evidence that he currently works as a pharmacist but it has been reported that he has applied for positions.

**Recommendation:** Consent Order for Revocation.

Dr. Robert Shutt motioned to accept counsel's recommendation for revocation; seconded by Dr. Paula Hinson. All were in favor and the motioned carried.

**2) L01-PHR-RBS-200105627**

An employee of a physician left a voice mail Rx for paragoric; it was taken by a tech who thought it was for periogard. The tech consulted the PIC, who agreed that the message on the voice mail sounded like periogard, and so it was filled. When the Rx was picked up a second DPH was on duty. The person saw that Chlorhexidene was there to be picked up and asked whether that was a generic. The DPH assumed he was asking whether it was a generic for periogard (not knowing that the customer meant paragoric) and said yes. Only when the patient contacted the prescriber's office was the error discovered. The second part of the complaint alleges that a Rx for Phenergan 25 mg was filled with 50mg by mistake. Apparently what happened was that since Phenergan was in short supply, the PIC dispensed at the higher dosage and compensated by altering the directions, but failed to inform the second DPH, who thus did not alert the patient to the change.

*Previous complaints:* PIC--None  
DPH--One  
Store--Two

**Recommendation:** *Misfill:* Letter of Instruction to PIC; when in doubt, should have called the prescriber to verify. *Increased dosage:* Letter of Instruction to PIC; should have briefed other DPH on the change.

**1. *Misfill:*** Dr. Reggie Dilliard motioned to accept counsel's recommendation; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**2. *Increased Dosage:*** Dr. Paula Hinson motioned to accept counsel's recommendation; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

**3) L02-PHR-RBS-200206243**

Complainant and her spouse presented a Rx for Vancomycin. DPH Told them that the pharmacy had a shortage of this medicine and the Rx could be only partially filled. A tech observed this conversation and assumed that the DPH was counseling the customers. This tech then brought out the medicine to the customers without additional counseling (the DPH having been interrupted by a phone call)

*Previous complaints:* DPH--None  
Store--None

**Recommendation:** Dismiss; a reasonable mistake due to a misunderstanding.

**Dr. Paula Hinson motioned to accept counsel's recommendation; seconded by Mrs. Barbara McAndrew. All were in favor and the motion carried.**

**4) L02-PHR-RBS-200206252**

**A dispute between two pharmacists about the transfer of a Rx. A customer entered the respondent's store and asked that a certain Rx be transferred from another store (Pharmacy B, part of a national chain) Respondent called the other store and the DPH there informed her that this Rx had recently been transferred from an outlet of his chain in Georgia, and gave her the name of the original store. Respondent then called this Georgia store, whose DPH (refusing to give his name) told her that because the Rx was for alprazolam ( a Schedule IV controlled substance), he couldn't transfer the Rx more than once. Th respondent called pharmacy B again for assistance in the form of a call to his Georgia store verifying the cancellation of the Rx at his store, but without success; the DPH at Pharmacy B insisted that such was not necessary. Finally, she called the Georgia store again and got the name of the DPH on duty from an unsuspecting tech. She then decided to complete the transfer and fill the Rx. The Georgia DPH complains that she was unprofessional. It appears that the manner of obtaining the DPH's name was improper, but to some extent this was extenuated by the confusing circumstances.**

***Previous complaints: DPH--None  
Store--Two***

**Recommendation: Letter of Instruction.**

**Dr. Reggie Dilliard motioned to dismiss as there was no violation of the rule; seconded by Dr. Robert Shutt. All were in favor and the motion carried.**

**5)L02-PHR-RBS-200206832**

**Complainant asked her pharmacy for copies of her Rxs in preparation for litigation over the drug Fen-Phen. The pharmacy's computer carries records only for the past 30 months, during which no Rxs for her were filled. Complainant could not provide specific dates and was not even sure that she had bought the drugs from this pharmacy, but wanted all the records searched anyway, at the store's expense.**

***Previous complaints: Pharmacist--none  
Store--None***

**Recommendation: Dismiss.**

**Dr. Robert Shutt** motioned to dismiss; seconded by **Dr. Paula Hinson**. All were in favor and the motion carried.

**6)L02-PHR-RBS-200206834**

Complainant alleges she was shorted 23 tablets on a Rx for Accupril. The DPH says this is unlikely since this product is supplied in sealed 90 count containers. The only apparent basis for the complaint is that the medicine did not last as long as the customer thought it would.

*Previous complaints:* DPH: None DPH/PIC at Pharmacy #1 (respondent)--None  
Store: One

**Recommendation:** Dismiss for lack of evidence.

**Dr. Reggie Dilliard** motioned to accept counsel's recommendation; seconded by **Dr. Julie Frazier**. All were in favor and the motion carried.

**7)L02-PHR-RBS-200207060**

Complainant alleges she was shorted 10 tabs on a Lorcet plus Rx and that the DPH made "insulting comments." DPH says the tabs were counted three times and denies any shortage.

*Previous complaints:* DPH: None  
Store: One

**Recommendation:** Dismiss for insufficient evidence.

**Dr. Reggie Dilliard** motioned to dismiss; seconded by **Dr. Robert Shutt**. All were in favor and the motion carried.

**8) L02-PHR-RBS-200207355**

Complainant is the Director of Pharmacy for the Department of Corrections in another state. During an inspection of one of his prisons, he found Duragesic patch Rxs for an inmate refilled by respondent pharmacy without authorization and in a larger quantity than that prescribed. DPH responds that it was really a key-punch error because there were originally two Rxs.

*Previous complaints:* None for either DPh or store.

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**Recommendation: Dismiss; apparently an key-punch error.**

Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

## **PHARMACY TECHNICIAN RULES**

Legal counsel, Cecil Ross reported that the rules should be approved shortly, as they are currently under review at the Attorney General's Office. The rules should be filed at the Secretary of State's Office by the next board meeting in July, 2002.

## **CONSENT ORDERS**

### **JAMES CATRON, D. PH.**

3341 Spring Creek Road  
Morristown, TN 37814

Legal counsel, Cecil Ross, presented a Consent Order for Revocation of License as Dr. James Catron voluntarily surrendered his license due to chemical dependency. Dr. Robert Shutt motioned to **accept** the consent order; seconded by Dr. Paula Hinson. All were in favor and the motion carried.

### **JOHN MOORE, D. PH.**

1428 Lost Hollow Road  
Ashland City, TN 37015

Cecil Ross, legal counsel, presented the Consent Order whereas Dr. John Moore was in violation of Rule 1140-1-.09 (1). A civil penalty of \$450 was assessed and received by the Board. Dr. Moore objected to the language outlined in the Consent Order which states, "Been guilty of **dishonorable, immoral, unethical** ..." and requested these three words be removed. Mr. Ross advised Dr. Moore that this was standard language. Dr. Paula Hinson motioned to **accept with the modification of conduct**. Dr. Reggie Dilliard seconded the motion. All were in favor and the motion carried.

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**MARK W. WINKLE, D. PH.**  
909 Belle Street  
Maryville, TN 37803

Legal counsel, Cecil Ross, presented the Consent Order whereas Dr. Mark Winkle was in violation of T. C. A. §63-10-506 for working on an expired license. A civil penalty of \$400 was assessed and received by the Board. Mr. Ross stated the front page of the Consent Order is missing and noted for the record. Dr. Paula Hinson motioned to **accept the Consent Order**; seconded by Dr. Julie Frazier.

All were in favor and the motion carried.

**COLLETTE FREEMAN, D. PH.**  
523 Harding Place, Unit 3  
Nashville, TN 37211

Cecil Ross, legal counsel, presented a Consent Order for Reinstatement of License for Dr. Collette Freeman. Dr. Robert Shutt motioned to **accept the Consent Order**; seconded by Dr. Julie Frazier.

All were in favor and the motion carried.

**JAMES MASON, III - REQUEST FOR REINSTATEMENT OF LICENSE  
MURFREESBORO, TN**

Dr. James Mason appeared before the Board to request reinstatement of his pharmacist license.

Advocating on his behalf from TPRN were Dr. Larry Branstetter; Dr. Collette Freeman, Dr. Cliff Weiss, Dr. Brian Kilpatrick, Dr. Morris Haddox and Dr. Mike Matheny. Dr. Kendall Lynch stated in September, 2001, a camera was installed in the pharmacy and Dr. Mason was caught taking drugs. Dr. Mason stated he started taking hydrocodone for torn knee ligaments and forged prescriptions for

Lorcet. Dr. Branstetter stated Dr. Mason was compliant with his TPRN contract. Dr. Weiss mention Dr. Mason had completed his 90/90 and is making restitution with his employer. Dr. Jay Dickerson with CVS advised that Dr. Mason is following the required guidelines. Dr. Mason's support network consists of TPRN, AA, family and Caduceus. Dr. Mason stated he is making restitution to CVS in the amount of \$5,000 and has paid \$2,500 towards the amount. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number 7977 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Repondent shall consume no medications unless they are prescribed by his primary physician, Mark Josovitz, MD. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the

requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at his own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

The Respondent shall comply with the Promissory Note he entered into with CVS on January 24, 2002. Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

**URINE SCREENS - TPRN**

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Director Kendall Lynch advised since January 2002, the calls to the recovery network are being monitored to see if pharmacists are contacting and also if urines are being deposited.

**SANDRA VAN SISE - REQUEST FOR REINSTATEMENT OF LICENSE  
NASHVILLE, TN**

Dr. Sandra VanSise appeared before the Board along with advocates Dr. Tommy Malone with the Tennessee Medical Foundation. Director Kendall Lynch advised the Board on May 9, 2001, Dr. VanSise telephoned the office and stated she was in Cumberland Heights for addiction. On the advice of TPRN, Dr. VanSise entered Charter Lakeside on May 30. In July, 2001, she was therapeutically discharged for failing to follow the rules. Dr. VanSise entered New Life in Burns, Tennessee on July 30, 2001 and surrendered her license in September, 2001. Dr. VanSise relapsed while in treatment. TPRN refused advocacy unless Dr. VanSise attended COPAC in Mississippi. New Life did not agree. Dr. VanSise was released from New Life on January, 2002. Dr. VanSise stated she was using IV Dilaudid. Dr. Tommy Malone stated Dr. VanSise has completed her 90/90 and is compliant with her TMF advocacy contract. Dr. VanSise's support network consists of family, home group, and Caduceus. After board discussion, Dr. Paula Hinson motioned:

1. Respondent does hereby agree to the reinstatement of license number 6690 with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Respondent shall consume no medications unless they are prescribed by her primary physician, Steven Kinney, MD. The Respondent shall immediately notify the Board office of the name of her primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at her own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract she entered into with Tennessee Medical Foundation.

Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

- (i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

#### **WAIVERS**

##### **SONYA GASS, D. PH.**

1334 Scott Drive  
Douglasville, GA 30134

Dr. Sonya Gass is requesting a waiver of Rule 1140-5-.01 relevant to the Live ACPE continuing education. Dr. Gass was granted a six-month extension and is now requesting twelve (12) months as she has been living outside the country and gave birth to a second child. Dr. Paula Hinson motioned to **give her the twelve month extension** in which to obtain the Live CE's. Dr. Robert Shutt seconded the motion. Mrs. Barbara McAndrew voted "no". The motion carried.

##### **KELLI HARRIS, D. PH.**

2273 W. Indian Paintbrush Circle  
Littleton, CO 80129

Dr. Kelli Harris is requesting a waiver of Rule 1140-5-.01 pertaining to the Live ACPE continuing education hours. Prior to 2001, The Colorado Board of Pharmacy did not require pharmacists to submit continuing education for renewal of license. Dr. Paula Hinson motioned to **grant a one time waiver for this license cycle only** with the stipulation that she will furnish CE for Tennessee

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licensure. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

**THEODORE LYONS, II, D. PH.**

3924 Glenroy Drive  
Memphis, TN 38125

Director Kendall Lynch advised the Board that Dr. Theodore Lyons' waiver request relevant to being the PIC at two (2) locations pursuant to Rule 1140-3-.14 (12) was presented in March, 2002 and the Board was concerned that Dr. Lyons would have to work sixty-three (63) hours per week. Dr. Paula Hinson motioned to grant the request for a dual PIC role for twelve (12) months and re-evaluate the staffing of the pharmacy. Dr. Robert Shutt seconded the motion. There were three (3) ayes and three (3) no's and president, Dr. Alan Corley voted "no". The motion failed. Dr. Reggie Dilliard motioned to approve the request. The motion failed for lack of a second. Mrs. Barbara McAndrew motioned to **deny the request**; seconded by Dr. Forrest Parmley. All were in favor and the motion carried. Director Kendall Lynch will compose the letter and Dr. Alan Corley will review prior to mailing.

**KATHY POLSTON, D. PH.**

P. O. Box 23  
Albany, KY 42602

Director Kendall Lynch advised the Board that Dr. Kathy Polston petitioned the Board in March 2002 for a waiver of Rule 1140-5-.01 relevant to the Live ACPE continuing education hours as she was unaware of the rule change and was granted a six-month extension. Dr. Polston states since that time she is experiencing difficulty in locating programs close to her residence. Dr. Polston is a caretaker for her mother and is unable to be away from home. Dr. Paula Hinson motioned to **give Dr. Polston**

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**an additional six (6) months in which to obtain the live CE hours, which is a total of twelve (12) months.** Dr. Forrest Parmley seconded the motion. All were in favor and the motion carried.

**PRESCRIPTION SOLUTIONS**  
2858 Loker Avenue East  
Carlsbad, CA 92008

Director Kendall Lynch stated that Prescription Solutions is requesting a waiver of Rule 1140-3-.14 (12) relevant to the pharmacist in charge provision at more than one location. Prescription Solutions has two (2) facilities in California. The Carlsbad facility is a mail order pharmacy which dispenses speciality products and the San Diego facility is currently in “mothball status” and would only be utilized for disaster recovery. Dr. Robert Shutt motioned to **approve the waiver**; seconded by Mrs. Barbara McAndrew. **The Board discussed should the situation change the Board of Pharmacy needs to be notified.** All were in favor and the motion carried.

**ROBERT GALLOWAY, D. PH.**  
1208 Churchill  
Gallatin, TN 37066

In July, 1999, Dr. Robert Galloway entered into a Consent Order for Reinstatement of License and under the terms is requesting the PIC privileges be reinstated. The TPRN is compliant with his request. Dr. Forrest Parmley motioned to **grant the waiver**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

**JOE W. O'NEAL, D. PH.**

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319 Falcon Drive  
Murfreesboro, TN 37130

Dr. Joe O'Neal is requesting a waiver of Rule 1140-5.01 in reference to the Live ACPE continuing education requirement. Dr. O'Neal has a total of 19.25 hours and was scheduled to attend the Update Seminar in Nashville, but was unable to attend due to emergency heart by-pass surgery on April 2, 2002. Dr. Robert Shutt motioned to **grant the waiver for a six (6) month extension for a balance of the Live CE**. Mrs. Barbara McAndrew seconded the motion. All were in favor and the motion carried.

**JAGDEEP THIND, D. PH.**  
421 Greenbrook Drive  
Kitchener, Ontario

Dr. Jagdeep Thind is requesting a waiver of Rule 1140-5-.01 relevant to the Live ACPE continuing education hours. Dr. Thind is unable to obtain the Live CE's as he is out of the country but wishes to maintain his Tennessee license. Dr. Reggie Dilliard motioned to **approve the waiver request**; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

**LANCE L. SWEARINGEN, D. PH.**  
**METHODIST HEALTHCARE UNIVERSITY HOSPITAL**  
1265 Union Avenue  
Memphis, TN 38104

Dr. Lance Swearingen is requesting a waiver of Rule 1140-3-.14 (12) relevant to the pharmacist in charge provision at more than one (1) location. Methodist Healthcare will be operating a 58-bed behavioral health facility on the second and third floors and South East Mental and Lakeside will be operating a 50-bed facility on the fourth and fifth floors at the same location. Dr. John Beauregard did

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not foresee any problems. Dr. Paula Hinson motioned to **grant the waiver for the PIC with the stipulation that the technician in the pharmacy is being supervised under Rule 1140-3-.13**. Dr. Reggie Dilliard seconded the motion. All were in favor and the motion carried. President Alan Corley re-enforced there shall be no technician in the pharmacy without the pharmacist.

#### **BEST PRACTICES ADOPTED BY TENNESSEE IMPROVING PATIENT SAFETY (TIPS)**

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) states that TIPS is a quality control measure. Dr. Paula Hinson motioned to recommend for state boards to endorse TIPS as educational tools for our practitioners. Dr. Robert Shutt seconded the motion. All were in favor and the motion carried.

#### **ADJOURNED**

Dr. Alan Corley adjourned the Board of Pharmacy meeting on Wednesday, May 15, 2002 at 4:40 p.m. CDT.

#### **RECONVENED**

The Board of Pharmacy reconvened on Thursday, May 16, 2002, at 9:00 a.m. CDT in Room 160 of the Davy Crockett Tower. President Alan Corley called the meeting to order. All members were present.

#### **TAMMIE L. HALE - REQUEST FOR REINSTATEMENT OF LICENSE CHATTANOOGA, TN**

Dr. Tammie Hale appeared before the Board to request reinstatement of her pharmacist license along with advocates Dr. Don Jones with TPRN and Mr. Eric Amburgey with Cornerstone. Director Kendall Lynch informed the Board that in October, 2001, he received a telephone call from CVS Loss

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Prevention that Dr. Tammie Hale was diverting drugs for personal use. Dr. Hale admitted to the theft of twenty-eight (28) bottles of Vicoprofen and was terminated on November 2, 2001. On November 26, 2001, Loss Prevention informed Dr. Lynch that Dr. Hale was in Cornerstone. On March 4, 2002, Dr. Don Jones with TPRN notified Dr. Lynch that Dr. Hale could work as an intern at a nuclear facility. Dr. Hale stated she was depressed and having marital problems. Dr. Don Jones stated Dr. Hale signed a contract with TRPN at the end of February, 2002 and is compliant with the requirements. Dr. Hale stated she attends 90/90, aftercare and Caduceus meetings. Dr. Hale stated she was charged with felony theft of over \$500 at CVS and has made restitution. Mr. Eric Amburgey stated she was compliant with the aftercare plan and would be a good candidate for reinstatement. Dr. Hale's support network consists of parents, cousins, TPRN, support group and Cornerstone. On March 26/28, 2002 Dr. Hale appeared for Pre-Trial Diversion but pled not guilty. Dr. Hale was not placed on probation and after (1) year if there are no problems, the charge will be expunged. After board discussion, Dr. Robert Shutt motioned:

1. Respondent does hereby agree to the reinstatement of license number 8947

with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years:

(a) The Respondent shall completely abstain from the consumption of alcohol and controlled substances, except as prescribed by a duly licensed practitioner for a legitimate purpose.

(b) The Repondent shall consume no medications unless they are prescribed by her primary physician, Bruce Pancake, MD. The Respondent shall immediately

notify the Board office of the name of her primary physician each time the Respondent changes primary physicians.

(c) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment.

(d) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement).

(e) The Respondent shall be subject to perpetual, random sampling of urine, blood or bodily tissues, at her own expense, by agents of the Board.

(f) Should any sampling indicate the presence of drugs for which the Respondent does not have a valid prescription, a show cause order will be issued to determine why the probation and the Respondent's license should not be immediately revoked.

(g) The Respondent shall comply with all the terms and conditions of the extended aftercare contract she entered into with Tennessee Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office.

(h) The Respondent will not serve as pharmacist in charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Order to remove the restrictions upon a show of good cause.

(i) If the license has been inactive, delinquent, suspended or revoked:

①Less than one (1) year, the pharmacist shall:

1. Provide written notice requesting an active license.
2. Satisfy all past due continuing pharmaceutical education.
3. Pay all cumulative license renewal fees and any applicable penalties.

The Respondent shall abide by the conditions of her judicial diversion and failure to abide by such conditions, a show cause order will be issued to determine why her license shall not be immediately revoked. Dr. Paula Hinson seconded the motion. All were in favor and the motion carried.

**JAMES N. CHIAVETTA, CEO**  
**TABSAFE<sup>®</sup> MEDICAL SERVICES, INC.**  
710 Hampton Trace Lane  
Alpharetta, GA 30004

Mr. James Chiavetta with Tabsafe<sup>™</sup> Medical Services, Inc., introduced to the Board a new medication reminder system that stores pharmacy-dispensed medications and makes them available to the individuals on a prescribed schedule.

#### **AD HOC RULES COMMITTEE REPORT**

Director Kendall Lynch stated the Drug Enforcement Agency wanted more centralized control of Emergency Kits than what is stated in the Board of Pharmacy Rule 1140-4-.09. Dr. Reggie Dilliard motioned to **approve the proposed rules**; seconded by Dr. Robert Shutt. Dr. Paula Hinson would like to have internet instead of a lawbook that is four (4) years old. All were in favor and the motion carried. Legal counsel, Cecil Ross, made a recommendation to the Board that the rules have been reviewed and noted the changes. Dr. Julie Frazier motioned that the Board **adopt a resolution that**

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**the recommendation of the proposed rules fulfill the requirement of the rules committee. Dr.**

Reggie Dilliard seconded the motion. All were in favor and the motion carried.

**ELIZABETH SMITH, D. PH.**

154 Berrywood Lane  
Hendersonville, TN 37075

**DEBBIE TAGGARD, D. PH.**

**CENTENNIAL MEDICAL CENTER**

2300 Patterson Street  
Nashville, TN 37203

Drs. Elizabeth Smith and Debbie Taggard are requesting that the Board approve an interactive internet CE course for eight (8) Live hours for “Anticoagulation Therapy Management Certificate Program”.

Dr. Paula Hinson motioned that the request be **denied to be consistent with the policy decision of**

**ACPE.** Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

***INDEPENDENT PHARMACY FAX MONITOR***

Pharmacy Benefit Managers (PBMs)

Director Kendall Lynch advised that Georgia lawmakers have passed the nation’s first legislation to regulate pharmacy benefit managers (PBMs). If the governor signs the bill, PBMs that perform any act in Georgia that constitutes the practice of pharmacy must be licensed and inspected by the state board of pharmacy.

**FUERT WALKER SHARP MEETING  
PARIS LANDING**

Dr. Forrest Parmley was voted president elect at the Fuert Walker Sharp meeting held May 8 - 10, 2002 at Paris Landing.

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### **NABP - MPJE REVIEW**

Drs. Paula Hinson and Ralph Staton recently attended a meeting at NABP's headquarters in Chicago, Illinois to review approximately 3,000 questions for the Multi-State Pharmacy Jurisprudence Exam (MPJE) for applicability to Tennessee laws.

### **NABP - SURVEY REGARDING LICENSURE TRANSFER FROM FLORIDA**

The results received from fifty-one (51) boards of pharmacy referencing the survey to accept Florida pharmacist via licensure transfer revealed twenty-three (23) boards will not accept Florida pharmacist; twenty-six (26) boards will accept Florida pharmacists and two (2) states are still deciding.

### **LAW REVIEW/JURISPRUDENCE EXAM - JUNE 4/5, 2002 MEMPHIS, TENNESSEE**

Director Kendall Lynch informed the members of the Board that travel requests have been approved.

### **ADJOURNMENT**

President Alan Corley asked for a motion to adjourn the Tennessee Board of Pharmacy meeting on Thursday, May 16, 2002 at 11:30 a.m. CDT; seconded by Dr. Robert Shutt. All were in favor and the motion carried.

Respectfully submitted,

Alan Corley, President

Kendall M. Lynch, Director

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